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EXAMINER

PIAZZA CORCORAN, GLADYS JOSEFINA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,669

Applicant(s)

TUMAN ET AL.

**Examiner**

Gladys JP Corcoran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,13-15,21-32 and 34-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32 and 34-40 is/are allowed.
- 6) ☐ Claim(s) 11, 13, 15, 21-31, 41-58 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11/18/03. 6) ☐ Other: _____

FINAL ACTION

Information Disclosure Statement

1. The reference Murasaki 5,643,651, cited in the information disclosure statement filed November 18, 2003 has been crossed out because it has already been cited on the information disclosure statement filed on June 26, 2001.

Claim Objections

2. Claim 42 is objected to because of the following informalities: Claim 42, line 3 recites "and a plurality discrete polymeric regions", which should recite -- and a plurality of discrete polymeric regions--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 52, 53, 54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention as set forth in paragraph 2 of the prior Office Action filed July 18, 2003 and restated below.

Independent claim 50 recites a method of providing polymeric material on a fibrous major surface of a nonwoven web where a polymeric region is "entangled with the fibrous major surface." Dependent claims 52, 53, and 54 recite that the nonwoven

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web is a film layer, an elastic film layer, or an elastic web. The only disclosure in the Specification where the polymeric region is "entangled with the fibrous major surface" is when the nonwoven web is "orange construction paper" (Example 13 on pages 17-18 with substrate G on page 11). There is no disclosure of entangling the polymeric region with the fibrous surface where the web is a film layer, an elastic film layer, or an elastic web.

5. Claims 52, 53 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention as set forth in paragraph 3 of the prior Office Action filed July 18, 2003 and restated below.

Independent claim 50 recites a method of providing polymeric material on a fibrous major surface of a nonwoven web where a polymeric region is "entangled with the fibrous major surface." Dependent claims 52 and 53 recite that the nonwoven web is a film layer or an elastic film layer. The specification has no disclosure to enable one of ordinary skill in the art to entangle a polymeric region with a fibrous surface of a nonwoven web where the web is a film layer or an elastic film layer (i.e. there is no enablement for a film layer or an elastic film layer to have a fibrous surface that is entangled with a polymeric region).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 11, 13, 22, 25, 26-31, 41, 42, 45, 48-52, 55, 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Murasaki (US Patent No. 5,643,651) as set forth in paragraph 12 of the prior Office Action filed July 18, 2003 and restated below.

As to claim 11, Murasaki discloses a method of making a web material (12) having a plurality of stems (4b) extending from discrete regions (4a) of the web by providing a web (12), providing a plurality of discrete quantities of polymeric material on the web at a temperature above its softening point (plural strips of resin material are injected or extruded), wherein a plurality of discrete polymeric regions are formed on the web and forming a plurality of stems in each discrete polymeric region of the plurality of discrete polymeric regions (a plurality of stems 4b are formed in each strip of polymeric material 4a).

As to claim 42, Murasaki discloses a web construction comprising a web (12) and a plurality of discrete polymeric regions on a first major surface of the web (4a), wherein each discrete polymeric region comprises a discrete quantity of polymeric material, providing a tool (2) comprising a plurality of stem forming holes in a surface of the tool (5), pressing each discrete polymeric region of the plurality of discrete polymeric regions on the first major surface of the web against the surface of the tool when the polymeric

material of each discrete polymeric region is above its softening point (injecting or extruding the polymeric material and passing with the web between a pressure nip), wherein a portion of the polymeric material enters the stem-forming holes (5), and separating the web construction from the surface of the tool, wherein each discrete polymeric region comprises a plurality of stems formed by the stem forming holes (see figures).

As to claim 50, Murasaki discloses providing at least one discrete quantity of polymeric material (4) on a fibrous major surface of a nonwoven web (Murasaki discloses using nonwoven webs with fibrous surfaces for the connector (i.e. paper)(column 2, lines 14-30)), wherein the at least one discrete quantity of polymeric material forms at least one discrete polymeric region (4a) entangled with the fibrous major surface (the polymeric region clearly is entangled with the fibrous surface as it is molded throughout the web) and forming a plurality of stems (4b) in the at least one discrete polymeric region (4a).

As to claim 58, (newly added by Applicant), Murasaki discloses a method of making a web material (12) having a plurality of stems (4b) extending from discrete regions (4a) of the web by providing a web (12), providing a plurality of discrete quantities of polymeric material on a first major surface of the web at a temperature above its softening point (plural strips of resin material are injected or extruded), wherein a plurality of discrete polymeric regions are formed on the first major surface of the web and forming a plurality of stems in each discrete polymeric region of the plurality of discrete polymeric regions (a plurality of stems 4b are formed in each strip of

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polymeric material 4a) after forming the plurality of discrete polymeric regions (the discrete polymeric regions are formed when they are separated into separate streams prior to pressing against the die wheel and then the stems are formed in the mold cavities and cooled).

As to claim 13, the discrete quantities of polymeric material are provided by extruding molten polymer in a form of continuous ribbons (column 6, lines 48-65). As to claims 22 and 45, Murasaki discloses the plurality of discrete polymeric regions separated by inter-regions revealing exposed portions of the first major surface of the web (see figures 4, 5). As to claims 25 and 48, Murasaki discloses the plurality of discrete polymeric regions comprise a plurality of stripes extending over the first major surface of the web (see figures 4, 5). As to claims 26 and 27, Murasaki discloses the polymeric regions cover within the percentages as claimed of the first major surface of the web (see figures 4, 5). As to claims 28 and 49, Murasaki discloses the plurality of stems comprise hooks (hook elements 4b). As to claims 29-31, it appears that Murasaki discloses the stems are oriented at an angle that is not normal to the plane of the web in different directions and that tool holes correspond to the angles not normal to the localized plane of the web (see for example, figure 4, column 4, lines 25-48). As to claim 41, Murasaki discloses cooling the discrete quantities of the polymeric material to a non-molten state after forming the plurality of stems (column 5, lines 1-7; column 7, lines 5-13). As to claim 51, Murasaki discloses simultaneously pressing the polymeric material against the fibrous major surface of the web while forming the plurality of stems (the polymeric material and the web are pressed between a nip of a pressure roll and a

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molding roll). As to claim 52, Murasaki discloses the web is a film layer (column 2, lines 15 and 30). As to claim 55, Murasaki discloses the at least one discrete polymeric region is surrounded by the fibrous major surface of the nonwoven web (see figures).

8. Claims 11, 13, 22, 24, 28, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa et al. (JP 8-187113) as set forth in paragraph 13 of the prior Office Action filed July 18, 2003 and restated below.

As to claim 11, Hasegawa discloses a method of making a web material having a plurality of stems (fastening sections 11) extending from discrete regions (both sides of the web 1) of the web by providing a web (thermoplastic elastomer 2), providing a plurality of discrete quantities of polymeric material on the web at a temperature above its softening point (two strips of polymeric material are coextruded with the holding web), wherein a plurality of discrete polymeric regions are formed on the web (1) and forming a plurality of stems in each discrete polymeric region of the plurality of discrete polymeric regions (fastening sections 11).

As to claim 13, the discrete quantities of polymeric material are provided by extruding molten polymer in a form of continuous ribbons. As to claim 22, Hasegawa discloses the plurality of discrete polymeric regions separated by inter-regions revealing exposed portions of the first major surface of the web (see figures). As to claim 24, Hasegawa discloses the web is an elastic web. As to claim 28, Hasegawa discloses the plurality of stems comprise hooks (hook shapes page 4). As to claim 41, Hasegawa discloses cooling the discrete quantities of the polymeric material to a non-molten state after forming the plurality of stems (top of page 6).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 21, 23, 24, 44, 47, 46, 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US Patent No. 5,643,651) as applied to claims 11 and 44 above and further in view of Kennedy et al. (US Patent No. 5,260,015) as set forth in paragraph 16 of the prior Office Action filed July 18, 2003 and restated below.

Murasaki discloses forming the polymeric regions on the web by impregnating through the web and molding the regions to form substrate regions with stems. Kennedy discloses providing the polymeric region on only one surface of the web only to a degree to firmly hold the polymeric region to the web in order to not encase the web thus destroying the aesthetic characteristics as a functioning backing material in order

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to modify the back surface of the fastener (column 2, lines 20-53). As to claims 23 and 46, Kennedy discloses using loop material as the web material in order to form back to back fasteners with less bulk (column 2, lines 40-53). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the web with discrete polymeric regions as shown by Murasaki by applying the polymeric regions to only one surface of the web in order to not fully encase the web and to not destroy the aesthetic characteristics of the web and to modify the back surface of the fastener as shown by Kennedy.

As to claim 50, Kennedy discloses forming the polymeric material on the web to entangle the polymer material with the fibrous surface of webs (column 3, lines 40-65; column 5, lines 54-65). As to claims 51, 52, and 55, see the discussion above in paragraph 12. As to claims 24, 47, 53 and 54, Murasaki and Kennedy both disclose the web material can be a variety of known materials including woven and non-woven materials, however they do not specifically disclose using an elastic material. It is well within the purview of one of ordinary skill in the art to provide an elastic material as the web material as a well known material for webs of fastening materials in a variety of applications particularly since Murasaki emphasizes a fastening material that is conformable and flexible and Kennedy discloses the web material is a loop material and these materials are well known to be elastic materials. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the web in Murasaki and Kennedy of an elastic material as is well within the purview of one of ordinary skill in the art, Murasaki discloses the importance of flexibility of the material and Kennedy

discloses the preference of using loop material as the web material which is well known to be elastic, only the expected results would be attained.

12. Claims 15, 43, 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US Patent No. 5,643,651) (optionally in view of Kennedy et al. US Patent No. 5,260,015) as applied to claims 11, 42, 50 above and further in view of Morris (US Patent No. 5,792,411) and/or Melbye et al. (US Patent No. 5,077,870) as set forth in paragraph 17 of the prior Office Action filed July 18, 2003 and restated below.

Murasaki discloses forming hooks in the polymeric region. It is well known in the art of forming fasteners to form stems that are deformed with a heated surface in order to form enlarged ends on the stems for better fastening. For example, Morris discloses it is known in the art to form stems in molded tools as fasteners and to deform the stems to form enlarged ends on the stems (column 6, lines 33-36; column 8, lines 59-63).

Melbye is another example in the art where stems are deformed with a heated surface in order to form enlarged ends on the stems for better fastening (column 5, lines 50-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the fastening members as shown in Murasaki by deform the stems with a heated surface in order to form enlarged ends on the stems as is well known in the art and exemplified by Morris and/or Melbye in order to form mushroom heads with better fastening.

13. Claims 24, 26, 27, 47, 53, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US Patent No. 5,643,651) as applied to claim 11 above as set forth in paragraph 18 of the prior Office Action filed July 18, 2003 and restated below

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(and further optionally in view of Reich et al. (US Patent No. 5,456,660), newly cited in the IDS filed November 18, 2003).

As to claims 24, 47, 53, 54 Murasaki discloses the web material can be a variety of known materials including woven and non-woven materials, however Murasaki does not specifically disclose using an elastic material. It is well within the purview of one of ordinary skill in the art to provide an elastic material as the web material as a well known material for webs of fastening materials in a variety of applications particularly since Murasaki emphasizes a fastening material that is conformable and flexible. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the web in Murasaki of an elastic material as is well within the purview of one of ordinary skill in the art particularly since Murasaki discloses the importance of flexibility of the material, only the expected results would be attained.

Furthermore, as a result of Applicant's request for evidence for well known materials in the art and the citation of Reich in the IDS filed November 18, 2003, Reich is further cited to show an example in the art of an elastic substrate for fastener material. Consequently, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the web in Murasaki of an elastic material as is well within the purview of one of ordinary skill in the art particularly since Murasaki discloses the importance of flexibility of the material and as exemplified by Reich, only the expected results would be attained.

As to claims 26 and 27, Murasaki does not specifically disclose what the percentages of the polymeric regions that cover the surfaces of the web. However, it

would have been obvious to one of ordinary skill in the art at the time of the invention to cover the web in the claimed percentages as it would have been well within the purview of one of ordinary skill in the art, only the expected results would be obtained.

14. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US Patent No. 5,643,651) as applied to claim 11 above and further in view of Morris et al. (US Patent No. 5,792,411) as set forth in paragraph 19 of the prior Office Action filed July 18, 2003 and restated below.

It appears that Murasaki discloses the stems are oriented at an angle that is not normal to the plane of the web in different directions and that tool holes correspond to the angles not normal to the localized plane of the web (see for example, figure 4, column 4, lines 25-48). Furthermore, it is well known in the art to provide stems and the tools for molding stems in angles not normal to the plane of the web and in different directions. For example, Morris discloses forming stems with a tool with angled holes that forms angled stems not normal to the plane of the web and in different directions (column 5, lines 14-39; column 6, lines 38-53; column 7, lines 10-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the stems in Murasaki at differing angles not normal to the plane of the web with a tool with angled holes as is well known in the art and exemplified by Morris in order to form stems with better directional fastening.

15. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US Patent No. 5,643,651) (optionally in view of Kennedy et al. US Patent No. 5,260,015) as applied to claim 50 above and further in view of Shimizu (US Patent No.

4,732,631) as set forth in paragraph 20 of the prior Office Action filed July 18, 2003 and restated below.

Murasaki discloses cutting the fastener material into multiple sheets of fasteners. Shimizu discloses it is known to intermittently fuse a pattern on a fastener material web in order to produce gaps to define a series of patches on the material. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the fastener material in Murasaki with a fused pattern in order to form a plurality of discrete patches on the major surface of the web as shown by Shimizu to facilitate the separation of individual fasteners.

16. Claims 24, 47, 53, 54 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US Patent No. 5,643,651) (optionally in view of Kennedy et al. (US Patent No. 5,260,015)) as applied to claims 11, 42, 50 above and further in view of Matsuda (EP 0233364) and/or King et al. (WO 96/04812) as set forth in paragraph 21 of the prior Office Action filed July 18, 2003 and restated below.

Murasaki and Kennedy both disclose the web material can be a variety of known materials including woven and non-woven materials, however they do not specifically disclose using an elastic material. It is well within the purview of one of ordinary skill in the art to provide an elastic material as the web material as a well known material for webs of fastening materials in a variety of applications. This is particularly true since Murasaki emphasizes a fastening material that is conformable and flexible. Furthermore, Kennedy discloses the improvement that the web material is a loop material and these materials are well known to be elastic materials as exemplified by

Matsuda and/or King. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the web in Murasaki and Kennedy of an elastic material as is well within the purview of one of ordinary skill in the art, Murasaki discloses the importance of flexibility of the material and Kennedy discloses the preference of using loop material as the web material which is well known to be elastic as exemplified by Matsuda and/or King, only the expected results would be attained.

Allowable Subject Matter

17. Claims 32, 34-40 are allowed for the reasons as set forth in the prior Office Action, filed January 6, 2003.

18. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. (For the reasons as set forth in paragraph 24 of the prior Office Action, filed July 18, 2003).

Response to Arguments

19. Applicant's arguments filed November 18, 2003 have been fully considered but they are not persuasive.

Applicant argues on page 11, that the claims 52, 53, and 54 contain the open ended language "comprising" and therefore do not exclude additional un-recited elements, and that webs of the constructions are supported in the Specification and claims as originally filed. The Specification does disclose webs of film layers or elastic materials, however, claims 52-54 depend from claim 50. Claim 50 requires that at least one discrete polymeric material forms at least one discrete polymeric region entangled

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with the fibrous major surface. The only disclosure in the Specification of the polymeric region entangling with a fibrous major surface is that of example 13 on pages 17-18 of the Specification where the nonwoven web is Substrate G (described on page 11 of the Specification as orange construction paper). There is no support in the Specification for the combination of where the polymeric material is entangled with a fibrous major surface of the web where the web is a film, and elastic film or an elastic web.

Applicant argues on pages 11-12 that the transitional language of claims 52 and 53 do not exclude additional, un-recited components from the claim, and that it is unclear what is considered to be non-enabling. The prior Office Action clearly stated in paragraph 3 the reasons for claims 52 and 53 failing to comply with the enablement requirement. Claims 52 and 53 depend from independent claim 50 which requires providing polymeric material on a fibrous major surface where the polymeric region is entangled with the fibrous major surface. The subject matter was not described in the Specification in such a way to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The only disclosure in the Specification of the polymeric region entangling with a fibrous major surface is that of example 13 on pages 17-18 of the Specification where the nonwoven web is Substrate G (described on page 11 of the Specification as orange construction paper). There is no disclosure in the Specification of the nonwoven web containing a fibrous surface layer and a film or elastic film layer. Therefore, there is no disclosure that would enable one skilled in the art to entangle a polymeric region with a fibrous

surface of a nonwoven web where the web is a film or elastic film (which do not have fibrous surfaces).

Applicant argues on pages 12-13 that Murasaki teaches providing molten resin that passes through a substrate sheet while the claims require providing one or more discrete polymeric regions on the web (claim 11), on a first major surface of the web (claim 42), or entangled with a fibrous major surface of the nonwoven web (claim 50). The reference Murasaki clearly discloses a method of providing a plurality of discrete quantities of polymeric material on a web (claim 11), providing a plurality of discrete polymeric regions on a first major surface of the web (claim 42), and at least one discrete polymeric region entangled with the fibrous major surface (claim 50). The claim limitations do not exclude the polymeric material passing through the web layer.

Applicant argues on pages 13-14 that Murasaki teaches the formation of male engaging elements simultaneously with the joining or encapsulating of the web in the resin while the rejected claims recite forming the discrete polymeric regions on the web (claim 11), providing a web construction comprising the discrete polymeric regions on a first major surface of the web (claim 42), or forming at least one at least one discrete polymeric region entangled with a fibrous major surface of the web (claim 50), and that with the polymeric regions in place on the webs, the plurality of stems are formed therein. The claims (11, 42 and 50) as currently written do not require first forming the discrete polymeric regions on the web and then forming the plurality of stems on the discrete regions as suggested by Applicant. Regardless, the polymeric material in

Murasaki is separated into discrete regions, then pressed against a web, and then the stems are formed in the tool and cooled.

Applicant argues on page 14 that Murasaki does not recite the relative coverage of the discrete polymeric regions in figures 4 and 5 (in reference to claims 26 and 27). Murasaki does not specifically disclose the percentage of polymeric regions covering the web, however, looking at the figures and the Specification as a whole including the disclosure that the web is introduced over substantially the entire width of the hook-element-forming part of the circumferential surface of the die wheel (column 4, lines 63-68). Therefore, it is considered that the percentage shown in Murasaki is within the ranges as claimed and set forth in paragraph 12 of the prior Office Action. Alternatively, as set forth in paragraph 18 of the prior Office Action, it would have been well within the purview and obvious to one of ordinary skill in the art to provide the claimed percentages, only the expected results would be attained.

Applicant argues on page 14 that there is no teaching identified of stems that are angled to a localized plane of the web (claims 29-31). The claims 29-31 require that the web defines a localized plane where the plurality of stems are oriented at an angle that is not normal to the localized plane. It appears that the stems shown in Murasaki (see figure 4) are not perpendicular; they appear to be curved at an angle. Regardless, the claims are alternatively rejected in view of Morris as set forth in paragraph 19 of the previous Office Action, filed July 18, 2003.

Applicant argues on page 15 that the reference Hasegawa describes an elastic section and fastening sections formed along the peripheral edges of the elastic section

and "not on the web" as claimed. The claims as currently written do not exclude the polymeric regions as shown in Hasegawa. The polymeric regions in Hasegawa are considered to be "on the web".

Applicant argues on page 15 that Hasegawa does not identify the relative coverage of the discrete polymeric regions (in reference to claims 26 and 27). The claim rejections of claims 26 and 27 over Hasegawa have been withdrawn. The polymeric regions in Hasegawa are on the web, but do not cover a first major surface of the web as required in claims 26 and 27. However, the claims are still rejected over Murasaki as discussed above.

Applicant argues on page 16 that there is no legally sufficient motivation to combine the teachings of Murasaki with those of Kennedy and that such would render Murasaki unsatisfactory for its intended purpose. One of ordinary skill in the art at the time of the invention practicing the method of Murasaki would be motivated to provide the polymeric regions only on one surface of the web in order to provide the improvements as shown by Kennedy of not destroying the aesthetic characteristics as a functioning backing material in order to modify the back surface of the fastener. Such is considered more than sufficient motivation. It is also not considered unsatisfactory for the intended purpose of Murasaki. One of ordinary skill in the art would readily recognize that the advantage of forming a flexible fastener web with multiple fastener strips on one web as shown by Murasaki and form the polymeric regions only on one surface of the web in order to provide the improvements as shown by Kennedy. Such is not considered to be unsatisfactory for the intended purpose of Murasaki.

Applicant states on page 18 in reference to the rejection of claims 24, 26, 27, 47, 53 and 54 that what appears to be Official Notice in the rejections is traversed and requests evidentiary support for any and all such statements. As to claims 24, 47, 53, and 54, it is unclear whether Applicant is arguing that it is not known in the art to provide substrates for fastener materials out of elastic material (in particular in view of the fact that Murasaki discloses the desirability of the substrate material to be flexible). It is noted that the Reference Reich has been applied to show one example of an elastic substrate for fastener materials (this reference is newly cited in the IDS filed November 18, 2003 (See MPEP § 609(B)(2)(i)) and Applicant requested documentation for well known statements (See MPEP § 2144.03) therefore the finality of this Office Action is considered proper). Regardless, the claims are also rejected in view of Matsuda and/or King which both show providing elastic material for fastening web substrates. As to claims 26 and 27, Murasaki does not specifically disclose the percentage of polymeric regions covering the web, however, looking at the figures and the Specification as a whole including the disclosure that the web is introduced over substantially the entire width of the hook-element-forming part of the circumferential surface of the die wheel (column 4, lines 63-68). Therefore, it is considered that the percentage shown in Murasaki is within the ranges as claimed and set forth in paragraph 12 of the prior Office Action. Alternatively, as set forth in paragraph 18 of the prior Office Action, it would have been well within the purview and obvious to one of ordinary skill in the art to provide the claimed percentages, only the expected results would be attained. One of ordinary skill in the art would be expected to provide the appropriate ranges for the

particular end product desired. Only the expected results would be obtained, and there is no particular criticality for the particular ranges claimed (see MPEP 2144.05).

Applicant argues on page 19 that the Office Action fails to provide motivation to combine the teachings of Murasaki with Shimizu because Murasaki is directed to integrally molding male engaging members on one surface of a substrate sheet while Shimizu is directed to forming a plurality of individual fastener pieces on a release sheet and does not integrally attach its fastener elements to a substrate. As discussed above, Murasaki discloses the fastener substrate is cut into smaller pieces, however it is not particularly or specifically disclosed how the fastener is cut. It is known in the art of forming fastener elements to cut pieces from a larger web by fusing a pattern of patches in order to produce gaps and define the series of pieces of fastener material on the web. One of ordinary skill in the art at the time of the invention practicing the method in Murasaki (optionally in view of Kennedy) would be motivated to look to known methods in the art for cutting the web into smaller pieces such as the disclosure of Shimizu in order to facilitate the separation of the fasteners.

Conclusion

20. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on November 18, 2003 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gladys JP Corcoran whose telephone number is (571) 272-1214. The examiner can normally be reached on M-F 8am-5:30pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Gladys JP Corcoran
Examiner
Art Unit 1733

GJPC